

Before The
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

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In re Applications of)	MM Docket No. 99-153
)	
READING BROADCASTING, INC.)	File No. BRCT-940407KF
)	
For Renewal of License of)	
Station WTVE(TV), Channel 51)	
Reading, Pennsylvania)	
)	
and)	
)	
ADAMS COMMUNICATIONS)	
CORPORATION)	File No. BPCT-940630KG
)	
For Construction Permit for a New)	
Television Station to Operate on)	
Channel 51, Reading, Pennsylvania)	

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

To: Magalie Roman Salas, Secretary
for direction to
The Honorable Richard L. Sippel
Administrative Law Judge

**CONSOLIDATED REPLY OF ADAMS COMMUNICATIONS CORPORATION
TO RBI'S "OPPOSITION" AND MASS MEDIA BUREAU'S "COMMENTS"**

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SUMMARY

Contrary to the arguments of Reading Broadcasting, Inc. ("RBI"), the Presiding Judge has ample authority to add the issues requested by Adams Communications Corporation ("Adams"). Such action is barred only when the hearing designation order contains a "reasoned analysis" which reflects "full" or "thorough consideration" of the requested issues. The Hearing Designation Order herein contains no such analysis or consideration of the requested issues.

Contrary to RBI's claims, Adams has not mischaracterized the history of RBI principal Micheal Parker before the Commission, nor has Adams mischaracterized the Commission's decisions concerning that history. The full Commission specifically stated, in *Two If By Sea Broadcasting Corporation*, that that history raised serious questions concerning Parker which would require a hearing. Those questions have not been designated for hearing elsewhere. They will have to be resolved before Parker (and RBI, of which Parker is the dominant principal) can be deemed qualified to remain a licensee. Thus, those questions can and should be resolved in this proceeding. No bar to such consideration has been presented.

Contrary to RBI's claims, there is no indication in any decision which even suggests, much less expressly provides, that the disqualification of Parker's applicant in *Religious Broadcasting Network* was ever reversed, rescinded or otherwise modified. To the contrary, the Commission itself, in *Two If By Sea*, concluded that that earlier decision raised serious questions about Parker's qualifications.

Contrary to RBI's claims, the decision in *Mt. Baker Broadcasting Company, Inc.* is

relevant here because it constitutes a separate and independent instance in which the Commission found a Parker-related entity to have engaged in deceit before the Commission.

Both RBI and the Mass Media Bureau argue that the matters involved in *Religious Broadcasting Network* and *Mt. Baker* are beyond the Commission's ten-year period for consideration of such matters. But the ten-year limitation relates only to allegations raised in the first instance more than ten years after the underlying conduct. In the Commission's view, the obvious evidentiary problems which such late-raised allegations present was sufficient to justify a bar against allegations concerning conduct dating back ten years.

Here, however, Adams is not presenting mere allegations. Rather, Parker's misconduct in *Religious Broadcasting Network* and *Mt. Baker* has already been adjudicated at the time of the misconduct. No need exists for further evidentiary showings, because the Commission already has examined the facts and arguments presented by the affected parties in those cases, has reached conclusions, and has published those conclusions. All Adams is seeking is an issue to permit examination of the effect which that already-adjudicated misconduct should be deemed to have on RBI's qualifications.

Contrary to RBI's claims, Adams's second requested issue is separate and distinct from the first, as it entails examination of Parker's conduct since *Religious Broadcasting Network* and *Mt. Baker*. That conduct demonstrates that Parker has continued to engage in a pattern of misrepresentation and lack of candor consistent with the deceitful conduct which was fully adjudicated in those earlier decisions.

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1. Adams Communications Corporation ("Adams") submits its Consolidated Reply to the Opposition of Reading Broadcasting, Inc. ("RBI") and the "Comments" of the Mass Media Bureau ("Bureau") to Adams's Motion to Enlarge Issues filed on July 15, 1999. In its Motion Adams sought the addition of two issues:

To determine whether, in view of the previously adjudicated misconduct of Micheal L. Parker, the controlling shareholder and dominant principal of Reading Broadcasting, Inc. ("RBI"), RBI is qualified to remain a licensee.

To determine whether Micheal L. Parker engaged in a pattern of misrepresentation and/or lack of candor in repeatedly failing to advise the Commission of the actual nature and scope of his previously adjudicated misconduct and, if so, the effect of such pattern of misrepresentation and/or lack of candor on RBI's qualifications to remain a licensee.

RBI opposes both issues; the Bureau opposes addition of the first issue, and supports addition of the second.

2. RBI claims, as a preliminary matter, that RBI is not "a pawn of Micheal Parker". RBI Opposition at 3-4. But RBI has acknowledged that Parker owns approximately 48% of RBI's stock, is its Chief Executive Officer, and one of its five directors. The Commission's records show (as Adams noted in its Motion) that the vast majority of RBI's other shareholders own less than 1% each, and no other shareholder controls more than approximately 7%-8%. RBI does not deny that.

3. Similarly, while RBI may now attempt to distance itself from the fact that Parker is RBI's driving force, RBI sought a two-three week delay in the prehearing conference solely because *Parker* was unavailable (because of a death in his family). If, as RBI now says, Parker were not really "synonymous with" RBI (RBI Opposition at 3), then RBI should not have required the delay.

4. Despite RBI's attempt to distance itself from Parker, the record demonstrates

that Parker is and, during the license term, was the central, dominant figure within RBI.

A. The Presiding Judge Has The Authority To Add The Requested Issues.

5. RBI argues that the Presiding Judge "lacks authority" to add Adams's requested issues. RBI Opposition at 4. This conclusion derives from the following generic, boilerplate language in the Hearing Designation Order ("HDO"):

[b]ased upon our review of the pending applications, the applicants appear to be qualified to construct and/or operate as proposed.

HDO, DA 99-865, released May 6, 1999, at ¶2.

6. In order for a Presiding Judge to be barred from adding issues (as RBI argues), the hearing designation order must contain a "reasoned analysis" with respect to the particular matters in question. *E.g.*, *Atlantic Broadcasting Co.*, 5 FCC2d 717, 8 RR2d 991 (1965); *Processing of Contested Broadcast Applications*, 72 FCC2d 202, 216-17, 45 RR2d 1220, 1230-31 (1979). In *Atlantic Broadcasting*, the Commission (citing *Fidelity Radio, Inc.*, 1 FCC2d 661, 6 RR2d 140 (1965)) stated that, in order to bar the Presiding Judge from adding an issue, the designation order would have to include "a *thorough* consideration of the particular question", *Atlantic Broadcasting* at ¶9 (emphasis in original). No such bar would exist unless the requested issues had been "*fully considered*", *id.* (emphasis in original), in the designation order.

7. In *Atlantic Broadcasting*, the Commission held that, while certain matters relied upon by a petitioner to enlarge "may have been before us in a peripheral manner when th[at] proceeding was designated for hearing", none of those issues had been "specifically considered . . . in the context of the issues requested by [the petitioner]" and, in the

designation order, the petitioner had "not been given a reasoned analysis of why the issues . . . should not be enlarged". *Atlantic Broadcasting* at ¶10. On that basis, the Commission found that consideration of the petition to enlarge was appropriate. In other words, the mere fact that the matters at issue had previously been presented to the designating authority in some other context was *not* sufficient to raise a bar against addition of issues by the Presiding Judge.

8. In revising its pre-designation pleading procedures in 1979, the Commission again addressed this question. There it specifically affirmed the vitality of *Atlantic Broadcasting and Fidelity Radio. Processing of Contested Broadcast Applications* at ¶¶43-46. In particular, the Commission directed the designating authority to "fully discuss[] the bases and rationale for rejecting an issue requested." *Id.* at ¶46.

9. In the instant case, no issue had been requested prior to designation because Adams was subject to the general proscription against pre-designation pleadings adopted in *Processing of Contested Broadcast Applications*. While the questions concerning Micheal Parker's qualifications had been before the Commission in a variety of other contexts concerning a number of other stations prior to designation, they had never been specifically raised or addressed herein. The HDO herein does not contain *any* discussion of Parker's history, much less a "reasoned analysis" comprising "full[]" or "thorough consideration" of those matters.

10. The only language to which RBI points is generic, boilerplate language which does not allude to RBI or Parker by name, much less advert to or discuss Parker's history before the Commission. RBI argues that (a) the Bureau (which issued the HDO) was aware

of that history and (b) it may therefore be divined that the Bureau fully considered that history and concluded for some undisclosed reason that that history was somehow immaterial here. But the fact that the Bureau may have been aware of Parker's underlying problems in some peripheral context(s) does *not* support that divination. See, e.g., *Atlantic Broadcasting*. In the absence of any "reasoned analysis" or "thorough consideration", the Presiding Judge plainly has the authority to consider Adams's Motion and to add the requested issues.^{1/}

B. The Commission's Action In *Two If By Sea Broadcasting Corporation* Requires Addition of Adams's First Requested Issue.

11. In its Motion Adams cited the Commission's decision in *Two If By Sea Broadcasting Corporation* ("*Two If By Sea*"), 12 FCC Rcd 2254 (1997), in support of its argument that the Commission has mandated a hearing into Parker's qualifications. In so doing, Adams quoted the Commission's specific language. Adams Motion at 5. Nevertheless, RBI accuses Adams of "grossly mischaracterizing" that decision, RBI Opposition at 8. RBI also engages in a variety of sophistic interpretations of language in an effort to prove that Parker's history of misconduct should not be counted against RBI. All of RBI's efforts are unavailing.

^{1/} The Bureau, in its Comments, does not suggest that the Presiding Judge suffers from any lack of authority. Presumably, if RBI's claims were correct, the Bureau -- which issued the HDO -- would advise the Presiding Judge that the Bureau had considered and addressed the requested issues at the time of designation (and in so doing would also presumably point out where its "reasoned analysis" or "thorough consideration" of these matters appeared in the HDO). The Bureau's support of addition of even one of Adams's requested issues further confirms the invalidity of RBI's claims of a lack of authority.

(1) *The impact of Two If By Sea is not limited to the Hartford proceeding.*

12. RBI argues that, because the Commission did not designate any issues against Parker's applicant in the WHCT-TV/Hartford matter in which the *Two If By Sea* decision was issued, and has not designated such issues against any other Parker-related entity, the Presiding Judge may assume that no issue can or should be added here. RBI Opposition at 8-15.

13. The Commission did not include any issue about Parker in the Hartford designation order because that order did not involve any application filed by Parker or a Parker-related entity. *See Martin W. Hoffman*, 12 FCC Rcd 5224 (1997). While a Parker-owned company has applied to buy the station in question there, the Commission specifically held that assignment application in abeyance pending resolution of questions relating to the underlying license. *Id.* Since those questions must be resolved favorably to the existing licensee (and proposed assignor) before any assignment application involving Parker can be considered, the Commission declined to address the Parker assignment application in the Hartford designation order. The lack of any discussion of Parker in the Hartford designation order does not support RBI's claims here.

14. RBI next claims that a Bureau letter decision granting a Parker-controlled licensee the right to assign Station WHRC(TV), Norwell, Massachusetts (File No. BALCT-961007IA), establishes that "the outstanding matter relating to [Parker] does not impede Reading's renewal application". RBI Opposition at 14. RBI is wrong again.

15. In the Norwell case, Parker was attempting to sell a station, not acquire or retain one. Moreover, no one had petitioned to deny that proposed assignment. The

Bureau's action was specifically, and cautiously, made "without prejudice" to whatever the ultimate resolution of the matters addressed in *Two If By Sea*. See Exhibit C to the RBI Opposition. Far from establishing Parker's (and, by extension, RBI's) qualifications, the Norwell decision merely afforded the Bureau, in an uncontested context, the opportunity to remove one license from Parker's control without resolving the substantial questions about Parker which have been identified in *Two If By Sea*.

16. RBI also argues that the Norwell letter somehow establishes that, "because the misconduct alleged in [*Two If By Sea*] does not involve the day-to-day operations of [RBI's] station", RBI should be deemed fully qualified. RBI Opposition at 14. The basis for this claim is not clear, particularly since Parker's misconduct, discussed in *Two If By Sea*, did not relate to the station at issue in that case, either. The misconduct addressed in *Two If By Sea* had occurred in connection with, at minimum, an application for a San Bernardino television permit.^{2/} Since Parker was only a proposed assignee of the Hartford station, none of the allegations mentioned in *Two If By Sea* related to his operation of that station. In *Two If By Sea* the Commission indicated its *unwillingness* to declare Parker qualified to acquire the Hartford license in light of his track record in other matters which plainly did not involve the Hartford station.^{3/}

^{2/} Other allegations which were before the Commission at the time of *Two If By Sea* included misconduct in connection with an Anacortes, Washington television permit, another application (see *Doylan Forney*, 3 FCC Rcd 6330, 6338, n. 1 (Rev. Bd. 1988)), and other matters also addressed in Adams's Motion herein.

^{3/} Parker's history of misconduct involves multiple efforts to deceive the Commission. A tendency toward deceit infects *all* of the wrongdoer's actions and interests, as it raises questions concerning the Commission's ability *ever* to rely on the wrongdoer's

(continued...)

17. The distinctions between the Norwell matter and the Hartford matter are obvious. In Norwell, the Bureau was willing to rid itself of a questionable licensee without any need for extensive proceedings. In Hartford the Commission was *unwilling* to find the same licensee to be qualified to acquire a license. In the instant case, RBI -- the Parker applicant here -- is seeking to retain its license rather than sell it. Importantly, far from resolving any issues favorably to Parker, the Norwell letter expressly acknowledged that those issues would be resolved elsewhere.^{4/} This case is thus more akin to Hartford than to Norwell.

(2) *Adams has not mischaracterized the Religious Broadcasting decisions.*

18. RBI trumpets that Adams has mischaracterized the decisions of the Presiding Judge and the Review Board in *Religious Broadcasting Network*, 2 FCC Rcd 6561 (ALJ 1987), *aff'd*, 3 FCC Rcd 4085 (Rev. Bd. 1988), and that those decisions really shouldn't be read to say that Parker has engaged in disqualifying misconduct. RBI is again wrong.

19. The Presiding Judge in *Religious Broadcasting* added a disqualifying issue

^{3/}(...continued)

representations. The metastatic nature of deceit is seldom, if ever, more obvious than with Parker, as demonstrated in Adams's Motion.

^{4/} In the Norwell letter, the Bureau mentioned the possible resolution of those questions in connection with the Hartford assignment application. That passing reference, however, cannot be read to foreclose consideration of those issues in any proceeding where they may be relevant. Nowhere in the Norwell letter is there a scintilla of a suggestion that the Bureau was aware of Parker's involvement in RBI, much less that the RBI renewal was destined to be designated for its own comparative hearing. And significantly, in its Comments on Adams's Motion in the instant case, the Bureau does not even mention the Norwell letter -- strongly indicating that that letter does not have the import which RBI attempts to assign to it.

against an applicant in which Parker was intimately involved and resolved that disqualifying issue *against* that applicant *because of Parker's misconduct*. Exceptions to that decision were filed with the Review Board, which issued a decision in which it "adopt[ed] the ALJ's findings and conclusions, except as modified herein". 3 FCC Rcd at 4085, ¶1. At no point in its decision did the Review Board "modif[y]" the ALJ's conclusion that the Parker applicant was disqualified. If the Parker applicant filed exceptions to the conclusion that it was disqualified, and if the Review Board had been inclined to act on such exceptions and thereby reverse or modify the ALJ's Initial Decision on that point, some language to that effect would be found in the Review Board's decision. There is none -- not in the body of the decision, not in the ordering clauses, not in the footnotes. ^{5/}

20. On the other hand, the Review Board's decision *does* contain extensive language which is fully consistent with the ALJ's conclusion that the Parker applicant engaged in fraud and deceit by failing to disclose Parker as the real-party-in-interest. The Review Board stated that the Parker application was "a travesty and a hoax" in which the purported general partner was nothing more than "a fig leaf for the true kingpin", Parker, 3 FCC Rcd at 4090, ¶16. The Board found

no error in the ALJ's core conclusion that [the purported general partner] is neither the sole nor dominant management figure purported by [the applicant],

^{5/} RBI observes in a footnote that, in *Religious Broadcasting*, "no appeal was taken regarding the Review Board's decision to only affirm that part of the Initial Decision that denied integration credit". RBI Opposition at 21, n. 7. But the burden of clearing any question about the Parker applicant's qualifications remained on the Parker applicant: the ALJ had unequivocally declared the applicant to be disqualified, the Review Board had affirmed the ALJ's decisions "except as modified", and the Review Board's decision contained no "modification" of the ALJ's disqualification. Thus, the disqualification remained in effect.

but a convenient vizard. . . [The applicant] is a transpicuous sham, [citation omitted], and the ALJ justly rejected its attempted fraud. [footnote omitted]

3 FCC Rcd 4091, ¶18. ^{6/}

21. Based on this finding -- and the lack of any indication that the Review Board intended to reverse or otherwise modify the ALJ's disqualification of the Parker applicant -- the Review Board decision cannot be seen as giving Parker a clean bill of health.

22. The Commission's reading of the Review Board decision is consistent with Adams's. In *Two If By Sea*, the full Commission stated that, in *Religious Broadcasting*, "the Review Board upheld the disqualification [of the Parker applicant], characterizing the application as a 'travesty and a hoax.'" *Two If By Sea*, 12 FCC Rcd at 2257. RBI attempts to dismiss the Commission's statement as non-dispositive "dicta", RBI Opposition at 15. But whether or not it is "dicta", the Commission's statement in *Two If By Sea* clearly reflects the Commission's understanding of the Review Board's decision, and that understanding is completely consistent with the understanding of Adams and completely contrary to that of RBI.

23. In an effort to point to something, anything, in the *Religious Broadcasting* decisions which might support its fanciful notion that the Review Board cleansed away Parker's sins there, RBI claims that some obscure linguistic meaning can be found in the fact that the ALJ in *Religious Broadcasting* held the Parker applicant "not to be qualified" and then "dismissed" its application, while the Review Board merely "denied" the application.

^{6/} The Board also described the Parker applicant as a "prototypical sham[], in which an offstage conductor wields the baton, while stand-in performers fiddle with their borrowed instruments, forget the score (if they've ever perused it), and reduce the proceedings to burlesque." 3 FCC Rcd at 4101, ¶50.

RBI Opposition at 18-20. According to RBI, "denial" (*i.e.*, the action taken by the Review Board) is the necessary result where an applicant is qualified, but comparatively inferior; "dismissal" (*i.e.*, the action taken by the ALJ) is the necessary result of a determination of disqualification. RBI Opposition at 19. Thus, RBI claims, the Review Board's mere "denial" of the Parker applicant must be read as a disposition on comparative, rather than disqualifying, grounds.

24. RBI is grasping at the wrong straws because the distinction on which it relies is simply wrong. *See, e.g., Shawn Phalen*, 7 FCC Rcd 3122 (Rev. Bd. 1992) (application of comparative applicant, held to have engaged in disqualifying "real-party-in-interest" misconduct, "denied"); *Las Americas Communications, Inc.*, 1 FCC Rcd 786, 791, 796 (Rev. Bd. 1986) (application of applicant, disqualified under four separate issues and "exclude[d]" from comparative consideration, "denied"); *Colonial Communications, Inc.*, 4 FCC Rcd 5969, 5978, 5981 (ALJ Sippel 1989) (application of disqualified applicant "denied"); *Perry Television, Inc.*, 4 FCC Rcd 4603, 4620 (ALJ Sippel 1989) (application of disqualified applicant "denied").

(3) *The Mt. Baker decision.*

25. In its Motion, Adams also pointed to the Commission's decision in *Mt. Baker Broadcasting Co., Inc.*, ("Mt. Baker"), 3 FCC Rcd 4777 (1988), as an adjudication adverse to Parker's qualifications which must be considered herein. RBI's response to this point is to acknowledge the Commission's determination that Parker's entity in *Mt. Baker* acted "with an intent to deceive the Commission", but then to claim that that misconduct is not decisional here because all the Commission did there was to take away that entity's construction permit.

RBI Opposition at 22-23. RBI seems to argue that, had the Commission also issued a fine to the entity, or possibly designated a hearing about it, then the situation might have been different. *Id.*

26. This is an odd, indeed puzzling, approach because even RBI recognizes that the Parker entity in *Mt. Baker* suffered the ultimate penalty, *i.e.*, loss of authorization; any of the alternative penalties suggested by RBI would have been preferable, not more onerous, to the Parker entity. See RBI Opposition at 22 (noting the Parker entity "argued that a forfeiture was the appropriate sanction . . . , not cancellation of the construction permit").

27. Concluding its sinuous argument concerning *Mt. Baker*, RBI claims conclusorily that that case has not been shown to have any decisional significance here. RBI ignores the fact that *Mt. Baker* reflects yet another decision, separate and independent from *Religious Broadcasting*, in which a Parker-related entity was found to have engaged in deceit before the Commission.

(4) *Consideration of Mt. Baker and Religious Broadcasting is not barred by a ten-year statute of limitations.*

28. Both RBI and the Bureau argue that no consideration can be given to the *Mt. Baker* and *Religious Broadcasting* decisions in this case because the misconduct described in those cases is more than ten years old. Both RBI and the Bureau cite *Character Policy Statement*, 102 FCC2d 1179, 1229 at ¶105 (1986), to support that proposition. RBI Opposition at 23-24; Bureau Comments at 3-4. RBI and the Bureau read that *Policy Statement* too narrowly.

29. There are important differences between, on the one hand, raising as yet

unproved allegations concerning events which occurred ten years ago, and on the other, assessing the on-going effect of matters which were alleged, considered, and proved ten years ago. The ten-year limitation discussed in *Character Policy Statement* refers to previously untried *allegations*, not to the continued impact of adjudicated findings and conclusions.

30. The ten-year limitation was adopted out of concern for the difficulties parties would meet in developing evidence concerning, and ultimately in rebutting, untimely *allegations*:

The "inherent inequity and practical difficulty" ¹³¹ involved in requiring applicants to respond to *allegations* of greater age [than 10 years] suggests that such limit be imposed.

¹³¹ *Kaye-Smith Enterprises*, 71 FCC2d 1402, 1406-07 (Rev. Bd. 1979), *recon. denied*, 46 RR2d 1583 (1983).

102 FCC2d at 1229, 59 RR2d at 834, ¶105 (emphasis added). The *Kaye-Smith* decision involved charges of misconduct which had not previously been adjudicated before the Commission. The same is true of *Central Texas Broadcasting Company, Ltd.*, 90 FCC2d 583, 593, 51 RR2d 1478 (Rev. Bd. 1982), which was also cited by the Commission (and by RBI in its Opposition) in the same connection.

31. The ten-year limitation makes sense when applied to previously non-adjudicated allegations. The difficulties in marshalling evidence -- documentary or testimonial -- after a decade are obvious. Proving the existence of facts after so long is a daunting process which the Commission has declined to undertake when the facts to be proved are more than ten years old.

32. But where the facts have already been proved through the Commission's own adjudicatory processes, and where those facts are preserved as a matter of record for all to see, the *Policy Statement* imposes no bar because the concerns about the evidentiary difficulties do not apply. Here, for example, it does not bar consideration of Parker's *Mt. Baker and Religious Broadcasting* misconduct, which has *already* been fully and timely adjudicated before the Commission.

33. In *Mt. Baker and Religious Broadcasting*, the allegations of the Parker-related misconduct were raised in the late 1980's, relatively soon after the misconduct occurred. The allegations were then subjected to the Commission's adjudicatory processes, which afforded the alleged wrong-doer ample opportunity to make a case in its own defense at that time. Once a preliminary adverse decision had been issued, the wrong-doer had ample opportunity to (and did in fact) seek review of the decision. Thus, the practical concern about the availability of "fresh" evidence with which to test the original allegations of misconduct does not apply here: the original allegations were raised at the time of the misconduct, evidence was presented at that time, and the Commission reached conclusions concerning the misconduct at that time.

34. Adams's first requested issue does not seek to re-litigate the underlying allegations of Parker's misconduct in *Mt. Baker and Religious Broadcasting*. Those allegations have *already* been litigated. Rather, Adams's requested is intended to permit the Presiding Judge (and ultimately the Commission) to determine the continuing impact on Parker's (and RBI's) qualifications of Parker's previously adjudicated misconduct. That inquiry would not require the litigation of events more than ten-years old, because those

events were already litigated at the time, and conclusions concerning them were reached. The continuing effect of those conclusions can and should be considered here.²⁷

35. Moreover, taken to their logical conclusion, the arguments of RBI and the Bureau would mean that any party could commit even the grossest misconduct, be found to be absolutely disqualified because of that misconduct, and still become a licensee again simply by taking a ten-year "time out" -- as if the passage of time by itself purifies the wrong-doer. Such a result would make no sense from the perspective of the Commission's regulatory interests.

36. The full Commission appears to agree with that position. In *Two If By Sea*, the Commission did *not* say that the "serious character questions" about Parker -- questions which arose from, *inter alia*, the then-nine-year-old *Religious Broadcasting* decisions -- would remain "serious character questions" for only a matter of months before they would then disappear. Rather, the Commission, having specifically acknowledged those questions, deferred consideration of them pending conclusion of another hearing. *Two If By Sea*, 12 FCC Rcd at 2257. By doing so, the Commission clearly signalled that it intended to address those questions eventually. The Commission's explicit deferral of consideration would have been nonsensical if (as RBI and the Bureau claim) that deferral were destined to lead *not* to substantive disposition of the "serious character questions", but rather to the silent

²⁷ The *Policy Statement* also refers to the propriety of evidence concerning "rehabilitation" regarding past misconduct. *Policy Statement* at ¶105. In its Opposition RBI offers no evidence of "rehabilitation". Indeed, in view of Parker's repeated efforts to avoid the consequences of his misconduct through misleading disclosures to the Commission, *see* Adams's Motion at 6-13, it does not appear that a convincing showing of rehabilitation could be made.

disappearance of those questions as they died suddenly of old age just months later.

37. Additionally, even if a ten-year limitation were applicable, it isn't clear what event would toll that limitation. Although the *Character Policy Statement* language quoted above is silent on that point, the Commission's original suggestion involved "perhaps ten years *preceding the filing of an application*". See *Character Policy Statement*, *supra* at ¶97 (emphasis added). Since RBI's captioned renewal application was filed in 1994, Parker's misconduct would certainly be ripe for consideration here if that date were deemed to toll the ten-year period.

38. Such a result would also be fair to Adams, which filed its application in June, 1994. Adams could not seek to raise issues concerning RBI prior to designation, see *Processing of Contested Broadcast Applications*, *supra*. But the Commission's freeze on comparative proceedings arising from *Bechtel v. FCC*, 10 F.3d 875 (D.C. Cir. 1995), delayed designation of this hearing through no fault of Adams's. Indeed, since March, 1997 Adams sought repeatedly to secure designation of this proceeding by invoking the mandamus authority of the Court of Appeals. See *In re Adams Communications Corporation*, No. 97-1141 (D.C. Cir., filed March 17, 1997); *In re Adams Communications Corporation*, No. 97-1493 (D.C. Cir., filed August 13, 1997); *In re Adams Communications Corporation*, No. 99-1015 (D.C. Cir., filed January 11, 1999). Adams's inability to raise issues earlier was the result of Commission delay. Now, it would be grossly unfair to reject Adams's motion because of lateness.

C. Adams's Second Requested Issue Has Not Previously Been Addressed Or Resolved.

39. RBI argues that the second issue proposed by Adams is essentially identical to the first issue and has already been addressed in *Two If By Sea*. RBI is wrong on both counts.

40. The first issue entails inquiry into the effect of Parker's already-adjudicated misconduct (in *Religious Broadcasting* and *Mt. Baker*) on the qualifications of RBI. That is a very narrow issue.

41. The second issue entails a much broader inquiry into a matter which has not yet been adjudicated. That matter includes Parker's apparent unwillingness to be fully candid and forthcoming in his disclosures to the Commission about *Religious Broadcasting* and *Mt. Baker* in repeated filings made over a number of years in connection with a number of stations, including WTVE(TV). While there is some overlap between the two requested issues, they are nonetheless separate and distinct.

42. In RBI's claim that Adams's second requested issue was "addressed" in *Two If By Sea*, RBI simply incorporates by reference its earlier arguments concerning the effect of *Two If By Sea*. RBI Opposition at 24-26. As set forth above, those arguments lack any merit.

D. Parker's Repeated Failure To Provide Candid And Complete Information Concerning His Past Misconduct Warrants Addition Of An Issue.

43. Finally, RBI asserts that Parker provided all the required information in the applications described in Adams's Motion. ^{8/}

44. In its initial argument on this point, RBI claims that Parker's failure to provide official citations is a matter of no real importance because Parker did provide document release numbers (in lieu of official citations) which should have been no more difficult for Commission staffers to locate than official reported versions of those decisions. RBI Opposition at 28-29. However, Section 1.14 mandates use of official citations. ^{9/} The very fact that RBI encountered difficulties in locating materials in the Commission's files (*see, e.g.*, Footnote 8, above) confirms Adams's point: those files are not always maintained as perfectly or as permanently as one might like. By contrast, officially reported opinions can be found nearly instantaneously in any library or through Lexis or Westlaw. Contrary to RBI's claims, a very significant practical difference exists between official citations and document numbers. ^{10/}

^{8/} RBI states that it has not been able to locate Parker's application for a new low power television station in Los Angeles. RBI Opposition at 27. RBI challenges Adams to produce a "complete date-stamped copy" of that application. A copy of that application (not including the multi-page engineering statement, which does not appear to be germane hereto) as Adams obtained it from the Commission's files a number of years ago is included as Attachment A hereto. Upon direction of the Presiding Judge, Adams will also provide copies of the engineering statement to the Court and the parties.

^{9/} RBI claims that Section 1.14 "applies to filings in proceedings before the Commission", but not to "written statements included with applications". RBI Opposition at 28. RBI does not explain the basis for this perceived intuitive distinction, which is not supported by the language of Section 1.14.

^{10/} Were Adams wrong on this point, the Bureau would presumably have so advised the Presiding Judge. The Bureau's Comments make no reference to this argument.

45. RBI further mischaracterizes Adams's argument on this point by suggesting that Adams believes that Parker should be penalized for failing to provide official citations. That is not Adams's position. Rather, as set out in detail in Adams's Motion, Parker's failure to provide official citations was another element of his repeated pattern of non-disclosure or partial disclosure apparently designed to prevent the Commission's processing staff from learning of the true depth and breadth of Parker's adjudicated problems before the Commission.

46. Parker's convoluted descriptions of his past problems with the Commission clearly failed to disclose all relevant information concerning Parker. The Bureau agrees with this assessment. *See* Bureau Comments at 5. ^{11/}

47. While RBI attempts to sidestep any direct discussion of the precise disclosures provided in Parker's earlier applications, it is forced to address the amendment to Parker's application to acquire International Broadcast Station KAIJ. In that amendment, which was filed in October, 1992, Parker stated unequivocally that

no character issues had been added or requested against those applicants [previously disclosed in the application by Parker, including the *Religious Broadcasting* applicant] when those applications were dismissed.

As Adams pointed out in its Motion, that statement was grossly inaccurate as to *Religious Broadcasting*, where a character issue had been requested, and added, and resolved adversely to Parker's applicant.

^{11/} The Bureau did indicate that it would consider any explanation RBI might offer in opposition to Adams's Motion. Bureau Comments at 5-6. But RBI has not offered any substantive explanation -- RBI has merely taken the position that Adams predicted it would, *i.e.*, claiming that Parker had provided as much information as he was required to provide. Indeed, RBI has not provided any statement from Parker shedding any light on the matter.

48. Nevertheless, RBI now states that Parker's statement was "factually correct". RBI Opposition at 31-32. RBI offers several sentences which appear designed to create the impression that RBI is explaining its startling position, but those sentences make no sense. *Id.* They do not provide any comprehensible explanation.

49. Parker's story about the ultimate disposition of the *Religious Broadcasting* matter seems to change, depending on whom he is addressing. In the applications described in Adams's Motion, for example -- and particularly the amendment to the Dallas international station assignment application -- Parker indicated that *Religious Broadcasting* involved nothing more than a comparative disposition. In RBI's Opposition, RBI (and, presumably, Parker) now acknowledge that there *was* a basic qualifying issue in *Religious Broadcasting*. But they now claim that that issue somehow evaporated when the Review Board acted in 1988.

50. But in 1993, after the *Religious Broadcasting* matter had been brought to the attention of the Bankruptcy Court in the Hartford proceeding, Parker told the Bankruptcy Judge, under oath, that some written ruling subsequent to the Review Board's decision had "cleaned up all of the outstanding issues, including the ones against my clients with relationship to me". The Bankruptcy Judge -- who had previously been presented with copies of the Review Board's *Religious Broadcasting* decision, *inter alia*, and who had those copies before him during Parker's testimony -- specifically asked Parker whether Parker was testifying that there had been a "published ruling" which reversed the Review Board's

decision; Parker responded unequivocally in the affirmative.^{12/} Here, Parker tried to convince a federal Bankruptcy Judge that his record had in fact been cleansed in a published decision subsequent to the Review Board's decision -- a position very distant from the claims presented to the Presiding Judge by RBI herein.

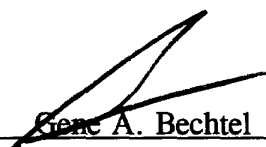
51. What emerges from all the information now available -- including RBI's Opposition -- is the obvious conclusion that Parker has engaged in fraud and deceit on the Commission over and over again. Having been caught red-handed, tried and convicted in two proceedings -- *Religious Broadcasting* and *Mt. Baker* -- Parker elected not to be fully candid and forthcoming in his later-filed applications -- including the application pursuant to which he acquired his interest in RBI.

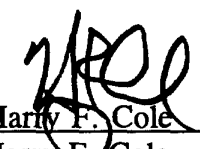
52. An applicant is required to be "fully forthcoming as to all facts and information relevant" to its application. *Swan Creek Communications, Inc. v. FCC*, 39 F.3d 1217, 1222 (D.C. Cir. 1994). See also *Fox River Broadcasting, Inc.*, 93 FCC2d 127, 129, 53 RR2d 44 (1983); *Silver Star Communications-Albany, Inc.*, 102 FCC2d 1179, 1211,

^{12/} See Attachment B hereto. Adams understands that the Bankruptcy Court in Hartford does not routinely make written transcripts of its proceedings. Instead, the office of the Court's Clerk provides interested parties with tape cassettes of the proceedings. Adams obtained the recordings of proceedings dated May 19, 1993 in the Hartford Bankruptcy matter, and the office of undersigned counsel informally transcribed a portion of those recordings. An excerpt from that informal transcript is included as Attachment B hereto. At the request of the Presiding Judge, Adams will duplicate the recording obtained from the Bankruptcy Court so that the original material from which Adams's transcript has been derived may be reviewed by the Presiding Judge and the parties.

59 RR2d 801 (1986). Clearly, Parker has fallen far short of that essential standard. In its Opposition, RBI offers no explanation or justification. Accordingly, an issue should be added. ^{13/}

Respectfully submitted,


/s/ ~~Gene A. Bechtel~~
Gene A. Bechtel


/s/ ~~Harry F. Cole~~
Harry F. Cole

Bechtel & Cole, Chartered
1901 L Street, N.W.
Suite 250
Washington, D.C. 20036
(202) 833-4190

Counsel for Adams Communications
Corporation

August 23, 1999

^{13/} RBI closes its Opposition with an *ad hominem* attack on Adams. While Adams is loathe to dignify that groundless attack with a response, Adams is constrained to observe that Adams's presentations to this Court (and to the Commission generally) have consistently been supported with citations to authority and with copies of relevant factual materials. RBI's unfortunate attempt to compare Adams to Parker has the (no doubt unintended) result of illustrating the very substantial differences between the two: where Adams has consistently been forthright and candid, Parker has been precisely the opposite.

ATTACHMENT A

Application (FGC Form 346)
of Micheal L. Parker for
new low power television construction permit
on Channel 68 in Los Angeles, California
(File No. BPTTL-891208ZI)
(Engineering Statement Not Included -
A copy of the Engineering Statement will
be provided at the direction of the Presiding Judge)

**APPLICATION FOR AUTHORITY TO CONSTRUCT OR
MAKE CHANGES IN A LOW POWER TV, TV TRANSLATOR OR TV BOOSTER STATION**
(Carefully read instructions before filling out form - RETURN ONLY FORM TO FCC)

For Commission Fee Use Only

FEE P. 5400000

FEE TYPE: C

FEE AMT: 375.00

ID SEQ: 6

For Applicant Fee Use Only

Is a fee submitted with this application? ☒ Yes ☐ No

If No, indicate reason therefor (check one box):

☐ Nonfeeable application

Fee Exempt (See 47 C.F.R. Section 1.1112)

☐ Noncommercial educational licensee

☐ Governmental entity

SECTION I - GENERAL INFORMATION

For Commission Use Only

File No. BPTL-891268ZI

1. Name of Applicant Micheal L. Parker	Address 22720 S. E. 410th Street		
	City Enumclaw	State WA	Zip Code 98022
	Telephone No. (include area code) (206) 825-1099		

2. This application is for: (check one box)

☒ Low Power Television

☐ TV Translator

☐ TV Booster

(a) Proposed Channel No. 68 (-)	(b) Community to be served: City Los Angeles State CA	
---	--	--

(c) Check one of the following boxes:

☒ Application for **NEW** station

☐ **MAJOR** change in licensed facilities; call sign: _____

☐ **MINOR** change in licensed facilities; call sign: _____

☐ **MAJOR** modification of construction permit; call sign: _____

File No. of Construction Permit: _____

☐ **MINOR** modification of construction permit; call sign: _____

File No. of Construction Permit: _____

☐ **AMENDMENT** to pending application; Application file number: _____

NOTE: It is not necessary to use this form to amend a previously filed application. Should you do so, however, please submit only Sections I and VII and those other portions of the form that contain the amended information.

SECTION II - ENGINEERING DATA AND ANTENNA AND SITE INFORMATION

1. Facilities requested:

Output Channel No.	Transmitter Rated Power Output	Proposed Community(ies) to be served	
68	1.0 kilowatts	City Los Angeles	State CA

Frequency Offset (check one)

☐ No offset ☐ Zero offset ☐ Plus offset ☒ Minus offset

Translator Input Channel No. N.A.


2. Proposed transmitting antenna location:

City Los Angeles	State CA	County Los Angeles
Address or other description of location: Round Top Drive		Geographical coordinates of transmitting antenna to nearest second North Latitude West Longitude <u>34° 08' 14"</u> <u>118° 13' 36"</u>

Attach as an Exhibit a map or maps (preferably topographic, if obtainable, such as Geological Survey quadrangles) of the area of the proposed transmitting antenna location shown drawn thereon the following data:

Exhibit No. E/Fig.1

- a. Scale of kilometers
b. Proposed transmitting antenna location accurately plotted.

3. Transmitter:	Make TTC	Type No. XL1000UU		Output Power P 1.0 kilowatts
4. Transmission line:	Andrew Corp.	HJ7-50A		Length 280' Rated efficiency E for length given (decimal fraction) 0.678

5. Transmitting antenna ☒ Directional "off-the-shelf" ☐ Directional Composite (Multiple Antennas) ☐ Non-Directional

Manufacturer Bogner		Model B24UA		Description ¹ Low Power Slot Antenna
Orientation of main lobe ² N 200° E	Overall antenna structure height above ground ³ 93 meters	Elevation of Site ⁴ 268 meters	Power gain G (multiplier) in the horizontal lobe of maximum radiation relative to a halfwave dipole ⁵ 45.1	

Effective radiated power (ERP) (ERP=P X E X G) 30.6 kilowatts Height of antenna radiation center above ground 86 meters
Height of antenna radiation center above above mean sea level 354 meters⁶

1 Give basic type using general descriptive terms such as half-wave dipole, "bow-tie" with screen, corner reflector, 10 element Yagi, 4 element in-phase array, two stacked 5 element Yagis, etc.

2 For directional antennas in the horizontal plane show the direction of the main radiation lobe(s) in degrees with respect to true north in a 360 degree horizontal azimuth, numbered clockwise, with true north as zero azimuth.

3 Show overall height above ground in meters to topmost portion of structure, including highest top mounted antenna and beacon if any.

4 Show the ground elevation above mean sea level in meters at the base of the transmitting antenna supporting structure.

5 Give the actual power gain toward the radio horizon.

6 This is equal to the sum of the site elevation and the height of the antenna radiation center above ground.

6. Attach as an Exhibit a vertical plan sketch for the proposed total antenna structure, including supporting structure, giving overall height of structure in meters above ground, including lighting beacon (if any).

Exhibit No.
E/Fig.2

7. Will the proposed antenna supporting structure be shared with an AM radio station?

☐ Yes ☒ No

If yes, list the call sign of that station. _____

8. Attach as an Exhibit a polar diagram of the radiation pattern (relative field) in the horizontal plane of the transmitting antenna showing clearly the correct relationship between the major lobe or lobes and the minor lobes of radiation and a tabulation of the pattern at every ten degrees and all maxima and minima. Applicants proposing use of multiple transmitting antennas shall submit a composite radiation pattern. If a non-directional transmitting antenna will be employed, i.e., an antenna with an approximately circular radiation pattern, check here ☐ and omit polar diagram and tabulation. If the antenna manufacturer and model number are on the Commission's list of common "off-the-shelf" directional antennas, check here ☐ and omit polar diagram and tabulation.

Exhibit No.
E/Fig.3

9. Has FAA been notified of proposed construction?

☐ Yes ☒ No

If Yes, give date and office where notice was filed: No change proposed in existing tower height

10. Environmental Statement (See 47 C.F.R. Section 1.1301 et seq.)

Would a Commission grant of this application come within 47 C.F.R. 1.1307, such that it may have a significant environmental impact, including exposure to workers or the general public to harmful nonionizing radiation levels?

☐ Yes ☒ No

If you answer Yes, submit as an Exhibit an Environmental Assessment as required by Section 1.1311. If no, explain briefly why not. Exhibit E

Exhibit No.

11. Unattended operation:

Is unattended operation proposed?

☒ Yes ☐ No

If Yes, and this application is for authority to construct a new station or to make changes in the facilities of an authorized station which proposes unattended operation for the first time, applicant will comply with the requirements of 47 C.F.R. Section 74.734 concerning unattended operation.

☒ Yes ☐ No

12. Is type approved broadcast equipment being specified?

☒ Yes ☐ No

If No, indicate date equipment was submitted to FCC Laboratory for approval. _____

I certify that I represent the applicant in the capacity indicated below and that I have examined the foregoing statement of technical information and that it is true to the best of my knowledge and belief.

December 6, 1989

Date

Signature

Alvin H. Andrus

Typed or Printed Name Andrus and Associates, Inc.
By Alvin H. Andrus

Telephone No. (include area code)

301/384-5374

☐ Technical Director

☒ Registered Professional Engineer

☒ Consulting Engineer

☐ Chief Operator

☐ Other (specify)

SECTION III - LEGAL QUALIFICATIONS

NOTE: Applicants for new stations only:

1. Applicant is (check one of the following):

- ☒ Individual ☐ General Partnership ☐ Corporation
☐ Other ☐ Limited Partnership ☐ Unincorporated Association

(a) If the applicant is a legal entity other than an individual, partnership, corporation or unincorporated association, describe in an Exhibit the nature of the applicant.

Exhibit No.
N/A

(b) For LPTV and TV translator applicants only:

If the applicant is an individual, submit as an Exhibit the applicant's name, address and telephone number (including area code).

Exhibit No.
I

If the applicant is a partnership, whether general or limited, submitted as an Exhibit the names, addresses, and telephone numbers (including area code) of all general and limited partners (including silent partners), and the nature and percentage of the ownership interest of each partner.

Exhibit No.
N/A

If the applicant is a corporation or an unincorporated association, submit as an Exhibit the names, addresses and telephone numbers (including area code) of all officers, directors and other members of the governing board of the corporation or association and the nature and the percentage of their ownership interests in the applicant (including stockholders with interests of 1% or greater).

Exhibit No.
N/A

2. For LPTV and TV translator applicants only, submit as an Exhibit a list of all other new applications filed during the same window period as this application in which the applicant or any principal of the applicant has any interest. Include the percentage of that interest for each listed application, as well as the other applicant's name (if different) and the channel number and location of the proposed station.

Exhibit No.
I

NOTE: No more than five (5) applications for new low power TV or TV translator stations may be filed during a single window period by any applicant, or by any individual or entity having an interest of 1% or more in applications filed in the same window period. This limit does not apply to minor or major change applications or to TV booster applications.

CITIZENSHIP AND OTHER STATUTORY REQUIREMENTS

3. (a) Is the applicant in compliance with the provisions of Section 310 of the Communications Act of 1934, as amended, relating to interests of aliens and foreign governments?

☒ Yes ☐ No

(b) Will any funds, credit, or other financial assistance for the construction, purchase or operation of the station(s) be provided by aliens, foreign entities, domestic entities controlled by aliens, or their agents?

☐ Yes ☒ No

If Yes, provide particulars as an Exhibit.

Exhibit No

4. (a) Has an adverse finding been made, or an adverse final action taken by any court or administrative body as to the applicant or any party to this application in a civil or criminal proceeding brought under the provisions of any law related to the following: any felony; broadcast-related antitrust or unfair competition; criminal fraud or fraud before another governmental unit; or discrimination?

☐ Yes ☒ No

(b) Is there now pending in any court or administrative body any proceeding involving any of the matters referred to in 4(a)?

☐ Yes ☒ No

If the answer to 4(a) or 4(b) is Yes, attach as an Exhibit a full disclosure concerning the persons and matters involved, including an identification of the court or administrative body and the proceeding (by dates and file numbers), a statement of the facts upon which the proceeding was based or the nature of the offense alleged or committed, and a description of the current status or disposition of the matter.

Exhibit No

SECTION III (Page 2)

5. Has the applicant or any other party to this application had any interest in:

(a) a broadcast application which has been dismissed with prejudice by the Commission?

☒ Yes ☐ No

(b) a broadcast application which has been denied by the Commission?

☒ Yes ☐ No

(c) a broadcast station, the license for which has been revoked?

☐ Yes ☒ No

(d) a broadcast application in any Commission proceeding which left unresolved character issues against the applicant?

☐ Yes ☒ No

If the answer to any of the questions in 5 is Yes, state in an Exhibit the following:

(i) Name of party having interest;

(ii) Nature of interest or connection, giving dates;

(iii) Call letters of stations or file number of application or docket number;

(iv) Location.

Exhibit No.
II

MULTIPLE APPLICATIONS

6. The applicant certifies that there is no other application pending that would be directly mutually exclusive with this application in which this applicant has an interest of one percent or more or in which any party to this application is an officer, director, or has an interest of one percent or more, direct or indirect.

☒ Yes ☐ No

If No, this application cannot be accepted for filing.

REAL PARTY IN INTEREST

7. The applicant certifies that no agreement, either explicit or implicit, has been entered into for the purposes of transferring or assigning to another party, any station construction permit or license or interest therein that is awarded as a result of a random selection or lottery.

☒ Yes ☐ No

If No, this application cannot be accepted for filing.

SECTION IV - PROGRAM SERVICE STATEMENT

NOTE: For Low Power Television applicants only:

Low Power Television stations must offer a broadcast program service; a non-program broadcast service will not be permitted. Therefore, briefly describe below, in narrative form, your planned programming service.

The applicant will provide a program service of educational, informational, entertainment and other programming to serve the needs of the Los Angeles area.

SECTION V - PREFERENCES

NOTE: Read the following material carefully before answering the questions.

1. All applicants for construction permits for new television translator stations, low power television stations and television booster stations, or for major changes in existing stations, must complete this section. Many pending proposals would create objectionable interference to other nearby proposals if all were granted and are considered mutually exclusive because only one can be granted. The winner from among mutually exclusive applicants will be selected by a lottery. In conducting a lottery, the law requires that certain preferences be awarded to encourage diversity in the ownership of mass communications media and minority ownership. An applicant with preferences will have a greater probability of winning the lottery than an applicant lacking them. Preferences will be computed by the Commission, in the manner described in 47 C.F.R. Section 1.1623.
2. It is essential that information about preferences be completely accurate so that the purposes of the law can be carried out and the lottery conducted fairly. You should, therefore, read very carefully the definitions set out below before answering the questions. WINNING APPLICANTS PROVED TO HAVE MADE MISREPRESENTATIONS TO THE COMMISSION TO IMPROVE THEIR CHANCES IN THE LOTTERY WILL BE DISQUALIFIED FROM HOLDING THAT AUTHORIZATION AND MAY ALSO JEOPARDIZE OTHER PENDING APPLICATIONS.

MINORITY PREFERENCE

1. "Minority" means a person who is a member of one of the following groups: Blacks, Hispanics, American Indians, Alaska Natives, Asians and Pacific Islanders. No other groups are recognized for the purposes of the lottery.
2. If the applicant is a sole proprietor, a preference will be awarded if the applicant is a minority.
3. Other entities will be entitled to a minority preference as follows:
 - a. **Partnerships.** If a majority of the partnership (computed on the basis of profits) is in the hands of a minority, the applicant is entitled to a preference. Note that limited or "silent" partners are to be included in determining whether a preference may be claimed. Thus, in a five-person limited partnership in which each partner is entitled to 20 percent of the profits, the partnership is eligible for a minority preference if any three partners (including three limited partners) are minorities.
 - b. **Trusts.** If a majority of the beneficial interests are held by minorities, the trust is entitled to a minority preference. The characteristics of trustee are not considered.
 - c. **Unincorporated associations or nonstock corporations with members.** If a majority of the members are minorities, the entity is entitled to a minority preference.
 - d. **Unincorporated associations or nonstock corporations without members.** If a majority of the governing board (including executive boards, boards of regents, commissions and similar governmental bodies where each board member has one vote) are minorities, the entity is entitled to a minority preference.
 - e. **Stock corporations.** If a majority of the voting shares are held by minorities, the corporation is entitled to a minority preference.
 - f. Where one form of entity owns an interest in a different form (e.g., a corporation owns 20 percent of a partnership), the interest owned, in its entirety, follows the characteristics of the owner. Thus, in the example, if 51 percent of the corporation's stock is voted by minorities, its entire 20 percent interest in the partnership would be considered as minority controlled when determining whether the partnership is eligible for a minority preference.

DIVERSIFICATION PREFERENCES

1. In general terms, a preference will be given to an applicant if it and/or its owners have no recognizable interest (more than 50 percent) in the aggregate, in any other media of mass communications. A smaller preference will be given to an applicant if it and/or its owners, in the aggregate, have a recognizable interest in no more than three mass media facilities. No preference is given, however, if any of the commonly owned mass media outlets serves the same area as the proposed station, or if the applicant and/or its owners have more than three mass media facilities. The material that follows will set out in more detail the meaning of "own," "owner," "media of mass communications," and "serves the same area."
2. If an applicant and/or its owners, in the aggregate, do not own any other media of mass communications, the applicant is entitled to a preference. "Own" in this context means more than 50 percent ownership.
3. "Owner" means: the applicant, in the case of a sole proprietor; partner, including limited or "silent" partners, in the case of a partnership; the beneficiaries, in the case of a trust; any member, in the case of a nonstock corporation or unincorporated association with members; any member of the governing board (including executive boards, boards of regents, commissions, or similar governmental bodies where each member has one vote), in the case of nonstock corporation or unincorporated association without members; and owners of voting shares, in the case of stock corporations. For the purposes of the diversification preference, holders of less than one percent of any of the above interests will not be considered.
4. A medium of mass communications means:
 - a. a daily newspaper; or
 - b. license or construction permit for:
 - (1) a television station, including low power and television translator station;
 - (2) an AM or FM radio broadcast station;
 - (3) a direct broadcast satellite transponder;
 - (4) a cable television system; or
 - (5) a multipoint distribution service station.
5. The diversity preference is not available to applicants that control, or whose owners control, in the aggregate, more than 50 percent of other media of mass communications in the same area. The facilities will be considered in the "same area" if the following defined areas wholly encompass or are encompassed by the protected, predicted contour of the proposed low power television, television translator or television booster station. (See Section 74.707(a)):
 - a. AM broadcast station—predicted or measured 2 mV/m groundwave contour (see Sections 73.183 or 73.186);
 - b. FM broadcast station—predicted 1.0 mV/m contour (see Section 73.313);
 - c. Television broadcast station—Grade A contour (see Section 73.684);
 - d. Low power television or television translator station—the predicted, protected contour (see Section 74.707(a));
 - e. Cable television system—the franchised community of a cable system;
 - f. Daily newspaper—community of publication; and
 - g. Multipoint Distribution Service—station service area (see Section 21.902(d)).
6. No diversity preference is available to an applicant whose proposed transmitter site is located within the franchise area of a cable system controlled (owned more than 50 percent) by the applicant and/or its owners. No diversity preference is available to an applicant whose proposed transmitter site is located within the community of publication of a daily newspaper controlled (owned more than 50 percent) by the applicant and/or its owners.
7. If an applicant and/or the owners of the applicant control no more than three other mass media facilities, none of which serve the same area as the proposed station, the applicant will be entitled to a smaller preference than an applicant with no other media facilities.

SECTION V - (Page 3)

REMINDER: Do not complete the following without reading carefully the definitions and other information set out in the foregoing pages.

CERTIFICATION OF PREFERENCES

MINORITY

1. The applicant certifies that it is entitled to and seeks to claim minority preference.

☐ Yes ☒ No

If yes, complete the following:

Name	Address	Percentage Interest in the applicant	Minority Group
------	---------	---	----------------

DIVERSIFICATION PREFERENCE

2. The applicant certifies that it and/or its owners have no interest, in the aggregate, exceeding 50 percent in any media of mass communications.

☒ Yes ☐ No

If Yes, DO NOT respond to questions 3 and 4.

3. The applicant certifies that it and/or its owners have no interest, in the aggregate, exceeding 50 percent in more than three mass communications media facilities.

☐ Yes ☐ No

4. The applicant certifies that it and/or its owners have no interest, in the aggregate, exceeding 50 percent in a media of mass communications in the same area to be served by the proposed station.

☐ Yes ☐ No

SECTION VI - EQUAL EMPLOYMENT OPPORTUNITY PROGRAM

1. For Low Power TV applicants, will this station employ on a full-time basis five or more persons?

☐ Yes ☒ No

If Yes, the applicant must include an EEO program called for in the separate Broadcast Equal Employment Opportunity Report (FCC Form 398-A).

SECTION VII - CERTIFICATIONS

1. For new station and major change applicants only, the applicant certifies that it has or will comply with the public notice requirement of 47 C.F.R. Section 73.3580(g).

☒ Yes ☐ No

2. For applicants proposing translator rebroadcasts who are not the licensee of the primary station, the applicant certifies that written authority has been obtained from the licensee of the station whose programs are to be retransmitted.

N/A ☐ Yes ☐ No

Primary station proposed to be rebroadcast:

Call Sign	City	State	Channel No.

3. The applicant certifies that it has contacted an authorized spokesperson for the owner of the rights to the proposed transmitter site and has obtained reasonable assurance that the site will be available for its use if this application is granted.

☒ Yes ☐ No

That person can be contacted at the following address and telephone number:

Name Joseph H. Shackelford		Mailing Address or Identification 730 E. Broadway	
City Glendale	State CA	ZIP Code 91205	Telephone No. (include area code) (213) 245-7575

The APPLICANT hereby waives any claim to the use of any particular frequency as against the regulatory power of the United States because of the previous use of the same, whether by license or otherwise, and requests an authorization in accordance with this application. (See Section 304 of the Communications Act of 1934, as amended.)


The APPLICANT acknowledges that all the statements made in this application and attached exhibits are considered material representations, and that all exhibits are a material part hereof and incorporated herein.

The APPLICANT represents that this application is not filed for the purpose of impeding, obstructing, or delaying determination on any other application with which it may be in conflict.

In accordance with 47 C.F.R. Section 1.65, the APPLICANT has a continuing obligation to advise the Commission, through amendments, or any substantial and significant changes in information furnished.

**WILLFUL FALSE STATEMENTS MADE ON THIS FORM ARE PUNISHABLE BY FINE AND IMPRISONMENT.
U.S. CODE, TITLE 18, SECTION 1001.**

I certify that the statements in this application are true, complete and correct to the best of my knowledge and belief, and are made in good faith.

Name of Applicant Micheal L. Parker	Signature 
Title N/A	Date 12/7/89

Micheal L. Parker
FCC Form 346

EXHIBIT I

Micheal L. Parker
22720 S. E. 410th Street
Enumclaw, WA 98022
(206) 825-1099

Micheal L. Parker is a Vice President and Director of West Coast United Broadcasting Co., which, in a separate application being filed on this date, is an applicant for a new low power television on Channel 66 at San Francisco, California. He holds no equity interest in West Coast United Broadcasting Co.

EXHIBIT II

Micheal L. Parker held jointly with his wife, Judith Parker, a stock interest in Pacific Rim Broadcasting Co., which was an applicant for a construction permit to modify its construction permit for KPRR-TV, Channel 14, Honolulu, Hawaii, to operate on Channel 5, FCC File No. BMPCT-830223KO, MM Docket No. 83-734. The application was dismissed by the Commission with prejudice effective March 12, 1984 pursuant to request by Pacific Rim Broadcasting Co. See Memorandum Opinion and Order, FCC 84M-1202, released March 12, 1984. An application of Micheal Parker for a new commercial television station on Channel 29 at Sacramento, California, FCC File No. BPCT-820824KJ, MM Docket No. 83-66, was dismissed with prejudice effective May 17, 1983 pursuant to request by Mr. Parker. See Memorandum Opinion and Order, FCC 83M-1594, released May 17, 1983. In addition, Micheal Parker is an officer, director, and shareholder of Mt. Baker Broadcasting Co., which was denied an application for extension of time of its construction permit for KORC(TV), Anacortes, Washington, FCC File No. BMPCT-860701KP. See Memorandum Opinion and Order, FCC 88-234, released August 5, 1988. Mt. Baker Broadcasting Co. has pending before the Commission a Petition for Reconsideration of that decision.

Micheal L. Parker
FCC Form 346

EXHIBIT III

The applicant seeks a waiver of Section 74.705 of the Commission's Rules as may be necessary with respect to protection of full power television stations. The applicant seeks to operate on a channel allotted to Los Angeles upon which a full power television station has heretofore been authorized. Section 74.705 could, in some instances, anomalously require greater protection from the proposed low power station than that required for a full power station under the Commission's rules. A waiver of the low power rules as necessary to allow the proposed station to provide only the protection necessary for a full power station will permit the applicant to initiate service to the Los Angeles market on Channel 68 pending resolution of current proceedings and the Commission's current "freeze" on new full power UHF television applications.

ATTACHMENT B

Partial transcript prepared by counsel for
Adams Communications Corporation
from official tape recording (certified 7/21/99) of
proceedings dated May 19, 1993
in the United States Bankruptcy Court
for the District of Connecticut,
Bankruptcy Proceeding No. 88-21124,
In re Astroline Communications Company

Counsel Can you explain for us what your understanding is of the circumstances surrounding the San Bernadino case?

Parker I can. First of all, if Mr. Cole were my attorney I'd sue him for malpractice, I mean I can't sue him for slander here, so I'd just like to respond that what he did was present to the court a document that was generated during the appeals process at the appellant, first appellant level of the Commission. The finding of the Review Board [inaudible] [on further] appeal and in fact Sandino Telecasters, another applicant, bought out all other parties in the San Bernadino case, and as a result, all these issues, including the issues against what was my client there as a broadcast consultant, and my client was paid a settlement sum of over eight hundred thousand dollars. There are no issues pending at the FCC, [chuckle], and any character, characterizations that there are is fraud [in the] court, by a supposed expert witness and FCC counsel.

Counsel Do you want to go into the particular facts of that case, or how it came about that —

Parker Well, it might [unintelligible] the court, uh, of the uh, the quote unquote charge was basically that my client had not disclosed my involvement sufficiently to the Commission, that was, I testified before the Commission that I had helped prepare the application, select the attorney, select the engineers; I was too involved in the FCC's opinion not to be disclosed as a party in the case. And the finding was against the general partner, who was my client, that she should have reported me as a party in interest to the Commission. Now, how does an FCC attorney, doing what most of them do, and I suspect, what Mr. Cole's doing for Mr. Shurberg, [inaudible] but because I was not an attorney but a broadcast consultant there was a finding at that level — later reversed by the judge at, you know, in terms that he cleaned up all of the outstanding issues, including the ones against my client with relationship to me and allowed a settlement, and allowed my client to be paid over eight hundred, or be paid eight hundred thousand dollars.

Judge This is a published ruling?

Parker Yes.

Judge A published ruling that changes this ruling [paper rustles]?

Parker Yes. Now I didn't come prepared to present it to the court, but it definitely was prepared, the settlement was allowed, the parties were allowed — the total settlement was almost eight million dollars —

Judge I don't care about the details.

Parker Mm-hmm.

Judge My question is, is there a published ruling —

Parker Yes.

Judge — that in effect reverses some of the findings —

Parker Yes, Your Honor, there is.

Judge Okay.

CERTIFICATE OF SERVICE

I hereby certify that, on this 23rd day of August, 1999, I caused copies of the foregoing "Consolidated Reply of Adams Communications Corporation to RBI's 'Opposition' and Mass Media Bureau's 'Comments' to be hand delivered (as indicated below), addressed to the following:

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/s/ Harry F. Cole
Harry F. Cole